

Contingency Contracting

Training



**Contract Award
and
Administration**

***Agile Contracting Support...Anytime...
Anywhere***



Overview

- Key Points
- File Management & Administrative Documentation
- General Contract Administration
- Seizures
- Construction Contract Administration
- Contracting Monitoring
- Contracting Modifications
- Transferring Contracts
- Terminations
- Contract Closeout





Key Points

- All *Federal Acquisition Regulation* (FAR) and *Defense Federal Acquisition Regulation Supplement* (DFARS) administrative recordkeeping and file management requirements continue under contingency, humanitarian assistance, or peacekeeping conditions.
- Contract files must be organized and sufficiently annotated to document the actions taken and the supporting rationale for the entire procurement process.
- Contracting does not end with contract award. Contract administration completes the cycle and assures the customer's needs are satisfied.
- Fast and accurate reporting is the key to satisfactory contract performance. Timely identification and documentation of deficient contractor performance is critical.
- How to appoint a contracting officer's representative (COR).
- When the contractor has satisfactorily completed performance of the terms of the contract, and final payment has been made, the contract file should be closed out as soon as possible.





Administrative Documentation and File Management

- Document all purchases to provide an audit trail and to support rationale for entire procurement process
- File Contents (IAW FAR 4.803) Examples
 - Funding document
 - List of sources solicited
 - Memorandum of Records (D&Fs, J&As if applicable)
 - Original and signed contract
 - Receiving report and record of payment receipts
 - Contract completion documentation





Administrative Documentation

and File Management

- Some problems you may face
 - Ex: Overseas vendors operating on a strict cash-and-carry basis, and don't provide paper receipts
- Use FAR and DFARS for guidance





Administrative Documentation and File Management

- Management Reports
 - AARs forwarded within 30 days of redeployment





General Contract Administration

- Customer / Contractor Training
 - Ensure both parties know their responsibilities
- Small Purchase Follow-Up
 - Communications with customer is a must ... document follow-up actions (damaged item/late delivery, etc.)
- Receipt of Goods and Payment
 - Relay to customer importance of the receiving report
 - Payments will NOT be made until report is received





General Contract Administration

- Installation Access
 - CCOs will process vehicle and vendor pass requests through established Security Forces procedures
- Shipment of Supplies and Equipment
 - Time = Money ... waiting for supplies from the United States to your deployed location may be too costly





General Contract Administration

- Payments in Local Currency
 - Our charge is to help stabilize the local economy, an influx of U.S. Dollars often works against this goal
- Property Control Record Books
 - Used anywhere from approved seizures during hostilities to general accountability of procured requirements





Seizures

- Property Control Record Book (PCRB)
 - Facilitates ability to document seizures during war
 - Confers no authority
- PCRB procedures





Seizures

Payment for Seizures

- Ratification
- Retroactive leases
- Public Law 85-804, as amended
- Claims adjudication IAW applicable Service regulations
- Local conditions will influence process to settle claims





Construction Contract Administration

- Pre-Construction Conference
 - Ensures everyone is on the same page
 - Generally, work is not started without a pre-con meeting
 - CCO chairs meeting, informs all parties of their obligations
- Liquidated Damages Clause
 - Should only be incorporated when time of delivery or performance is an important factor in the award
 - Government will suffer damage if either is delinquent
- Payments
 - Progress reports are used to support progress payments
 - Final payment made upon successful completion





Contract Monitoring

- Contracting Officer Representative (COR) Appointment
 - Establish core of properly trained CORs to assist in monitoring contractor performance ... your eyes and ears
- Appointment done in writing, training accomplished
 - Training focused on COR Key Duties and Ethics
 - Verify contractor performance IAW terms of contract
 - COR has no authority to make contractual changes
 - CCO surveillance of COR from time-to-time
- COR File Contents
 - Importance of their contract documentation (MFRs, etc.)





Contract Monitoring

- Discuss perceived deviations with COR, not the contractor
- Contract Monitoring System
 - Customer complaint system





Contract Modifications

- Changes: Written change in the contract terms/scope
 - Administrative Change: Unilateral changes not affecting substantive rights of the parties ... CCO only signs
 - Constructive Change: Government requires contractor to perform work not necessarily part of the contract
- Supplemental Agreements: In writing and are bilateral
 - Contractors consent required before contract mod
 - Bilateral mods are mandatory for commercial items
- Equitable Adjustments
 - Policy: Mutual agreement to resolve contractor claims
 - If not achievable CCO will issue final a decision





Transferring Contracts

- Some reasons for transferring contracts:
 - Redeployment
 - Transfer of mission
- Consider
 - Accounting for government and contractor property
 - Transfer v. Termination for Convenience (T4C)
 - Ties with older contracts





Terminations

- Three options for termination:
 - Termination for Default (T4D)
 - Termination for Convenience (T4C)
 - Termination for Cause
- Notices:
 - Delinquency
 - Cure
 - Show Cause





Terminations

- Terminations implies a breach of contract, be prepared to negotiate a fair and reasonable settlement
 - Notice of Terminations should be in writing, stating:
 - Contract is being terminated / Extent of termination
 - Steps contractor should take to minimize it's impact
 - Upon receipt of Termination (IAW FAR 49.104), the Contractor should:
 - Stop work immediately
 - Terminate sub-contracts and settle any liabilities
 - If directed, perform any continued portion of work
 - Submit a settlement proposal





Terminations

- Terminations for Convenience
 - Most prevalent in a deployed environment
 - Simple issuance of letter and release of claims required
- Terminations for Default
 - Used when contractor fails to perform as required
 - Issue cure notice and/or issue show cause notice
- Terminations for Cause (FAR 12.403 – Commercial)
 - Applicable when supplies/services are no longer required
 - Issue Suspension of Work or Stop Work as applicable





Contract Closeout

- Contract Closeout occurs when:
 - Contractor has satisfactorily completed performance
 - Final payment / Release of Claims has been achieved
 - Complete agency specific contract close-out checklist
 - Remove file from active list ... write CLOSED on file
 - Retain contract file as required by the FAR
- Close-out of Ordering Officer Accounts (Re-deploy)
 - Secure original appointment order
 - Return completed forms / documents / PIIN Logs
 - Return unused SF 44's





Summary

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